

May 19, 2008

E-19J

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., N.E., Room 1A
Washington, DC 20426

Re: Final Environmental Impact Statement for REX East Project, Rockies Express Pipeline, LLC, WY, NE, MO, IL, IN and OH (CEQ No. 20080145) (FERC Docket No. CP07-208-000)

Dear Ms. Bose:

In accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency, Regions 5, 7 and 8 (U.S. EPA) have reviewed the Federal Energy Regulatory Commission's (FERC) above referenced Final Environmental Impact Statement (FEIS) for the proposed Rockies Express East (REX East) Project dated April 2008. This letter reflects consolidated comments from U.S. EPA Regions 5, 7 and 8.

The FEIS explains that Rockies Express Pipeline L.L.C. (Rockies Express) proposes to construct and operate 639.1 miles of 42-inch-diameter natural gas pipeline, 7 new compressor stations, 19 meter stations and 42 mainline valves starting at the proposed compressor station in Audrain County, Missouri, proceeding eastward through Illinois and Indiana, and terminating at the proposed interconnect at the existing Clarington Hub in Monroe County, Ohio. Approximately 59% of the proposed pipeline would be collocated along existing utility right of way. Two of the 7 compressor stations would be located in Carbon County, Wyoming and Phelps County, Nebraska. The FEIS identifies the purpose of the REX East Project is to provide natural gas transportation service for gas produced in the Rocky Mountain region from the terminus of the REX West Project in Audrain County, Missouri to markets in the Midwestern and eastern United States. Rockies Express proposes to start construction on the REX East Project in spring 2008.

U.S. EPA focused our review of the FEIS on FERC's responses (Volume 2, Appendix K) to the concerns we raised in our January 14, 2008, comment letter regarding the Draft EIS (DEIS). At that time, we expressed environmental concerns regarding potential impacts to surface water and ground water/sole source aquifer, air quality, wetlands and upland forest. To better insure that adequate avoidance, minimization and compensation mitigation measures are undertaken to protect the environment if this project moved forward, we recommended additional information be developed and included in the Final EIS (FEIS) for this proposal. Most of this additional information was being requested from Rockies Express by FERC as identified throughout the DEIS. Given the imminent start of construction, we recommended that both the upland forest

mitigation plan and the wetland mitigation plan be included in the FEIS and include compensatory mitigation. We also recommended a table be developed to help clarify specific impacts and needed mitigation measures. We provide detailed comments on selected FERC responses to U.S. EPA issues and concerns in the attachment to this letter.

Based on our review of the FEIS, U.S. EPA retains its concerns. Our FEIS review shows that there are a number of uncompleted information requests and mitigation items for a variety of resources that need to be resolved. For example, given the imminent start of construction, the FEIS does not include a Wetland Mitigation Plan or a final comprehensive Upland Forest Mitigation Plan with compensation. In general, we concur with FERC staff's recommendations for the additional information and mitigation identified throughout Sections 4 and 5, and the various Appendices of the FEIS; however, we believe that FERC's decisions would be better informed if this information was developed prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order. This would allow FERC to substitute some of the vague mitigation commitments conveyed in the FEIS with a more precise accounting of project impacts. Specific mitigation commitments could be identified for those impacts and secured prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order.

Please send hard copies of the FERC Record of Decision (ROD) or equivalent FERC Order to Regions 5, 7 and 8. If you would like to discuss the content of this letter and enclosure in more detail, please contact Virginia Laszewski of my staff at 312/886-7501 or email her at laszewski.virginia@epa.gov.

Sincerely,

/S/

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

Enclosure

cc: Joe Cothorn, U.S. EPA REGION 7
Larry Svoboda, U.S. EPA REGION 8
Cliff Rader, HQ U.S. EPA, Office of Federal Activities

**U.S. EPA Comments on FERC Final Environmental Impact Statement (FEIS)
Rockies Express (REX) East Project
(CEQ No. 20080145) (FERC Docket No. CP07-208-000)**

U.S. EPA focused our review of the FEIS on FERC's responses (Volume 2, Appendix K) to the concerns and recommendation we raised in our January 14, 2008, comment letter regarding the Draft EIS (DEIS) and the current mitigation measure identified in the FEIS. The major headings in our comments below refer to the numbering system FERC used in the FEIS to identify and respond to specific U.S. EPA comments. For example, Response F3-2 references U.S. EPA comments regarding Sole Source Aquifers. The numbers under the major headings mentioned above refer to the specific numbers assigned by FERC to the specific FERC staff recommendations made in Section 5.2 [FERC STAFF's RECOMMENDED MITIGATION] of the FEIS.

Response F3-2, [Ground Water Quality - Miami Valley Sole Source Aquifer (SSA) (Ohio) – treatment of spills/leaks]: The FEIS text has been revised to correct the number of U.S. EPA-designated Sole Source Aquifers in Ohio. Thank you.

We appreciate that Rockies Express (REX) has developed a Spill Prevention Control and Countermeasures Plan (SPCC), which is included in the FEIS. However, given the imminent start of construction and to help insure that public drinking water supplies are protected, we recommend that the following specific information requested by FERC staff be obtained prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order.

- **56.** REX develop a site-specific spill plan that would further reduce the likelihood of spills/leaks from construction-related equipment impacting the Hoosier Hills Wellhead Protection Area (WPA) (FEIS p, 5-27). The plan shall be in addition to REX's SPCC Plan and shall contain a list of all fluids that would be used during construction in the area (FEIS page 5-28).
- **57.** REX shall develop a water quality testing plan prior to start of construction for Hoosier Hills Regional Water District's (HHRWD) existing well in consultation with HHRWD. This plan shall include water quality testing prior to, during, and post construction for 2 years to document any construction-related impacts on the Hoosier Hills WPA. Copies of the water quality test results shall be provided to HHRWD (FEIS page 5-28).

We also concur with the following FERC staff FEIS recommendations and recommend REX commit to undertaking these recommendations prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order:

- **58.** REX shall notify HHRWD at least 48 hours prior to the start of construction (FEIS page 5-28).
- **69.** REX shall provide HHRWD a copy of the hydrostatic test water analysis prior to discharge to the White River (FEIS page 5-29).

- **59.** Prior to the start of construction, REX shall file with the Secretary of FERC documentation of consultations with applicable local and state agencies regarding construction in areas with WPAs or other groundwater management areas crossed by the pipeline (FEIS page 5-28).

- **61.** Within 30 days of placing the pipeline facilities in service, REX shall file a report with the Secretary identifying all water supply wells/systems damaged by construction and how they were repaired. The report shall include a discussion of any complaints concerning the well yield or quality and how each problem was resolved.

Response F3-3, (Surface Water Quality – Hydrostatic Test Waters): We appreciate the confirmation that REX will not internally coat the pipeline and that no chemicals will be added to the hydrostatic test waters.

The FEIS identifies and discusses the potential use of an additional trenchless construction technique (micro-tunneling) for stream/river crossings that was not considered in the DEIS. The FEIS (page 2-21) identifies that the FERC staff were unable to ascertain exactly what fluids would be used for lubrication and cutting return in the micro-tunneling process. We concur with FERC staff's recommendation that:

- **21.** Prior to the use of the micro-tunneling technique, Rockies Express file with the Secretary for review and written approval a list of fluids that would be used during the tunneling process. No micro-tunneling should take place until the list has been approved by the Director of Office of Environmental Programs (OEP) (FEIS page 5-21).

Response F3-4, (Forested Wetland Impacts and Wetland Mitigation): The FEIS does not include a Wetland Mitigation Plan that includes compensatory mitigation for the forested wetland impacts as we had recommended. Given the imminent start of construction and to help insure that impacts to wetland resources are adequately compensated, we recommend that the following specific information requested by FERC staff be obtained prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order.

- **71.** Rockies Express develop a site-specific wetland restoration plan for Black Burn Island in consultation with U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service (FWS), and Missouri Department of Natural Resources (MODNR). Rockies Express should file this plan with the Secretary for review and written approval by the Director of OEP. (FEIS page 5-29)

- **72.** Rockies Express consult with the COE, FWS, and other state and federal relevant agencies regarding replanting, monitoring, and managing reforestation, including compensatory mitigation for wetland impacts for all temporary and permanent right-of-way, additional temporary workspaces, and contractor yards/pipe yards located within forested wetlands. Rockies Express should include this information in its Wetland Mitigation Plan. (FEIS page 5-29)

- **73.** Rockies Express finalize consultations with COE, FWS and appropriate state and federal agencies to develop its Wetland Mitigation Plan, and file with the FERC Secretary a final Wetland Mitigation Plan and the results of its consultations with these agencies. (FEIS page 5-30)

We also concur with the following FERC staff FEIS recommendation and recommend REX commit to undertake this recommendation prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order:

- **70.** Rockies Express should prepare site-specific blasting plans for each wetland with shallow bedrock prior to blasting. Rockies Express should also evaluate and incorporate appropriate methods to seal fractures in the bedrock following blasting to help prevent possible drainage of wetlands. Rockies Express should file this plan with the Secretary for review and written approval by the Director of OEP. (FEIS page 5-29)

Response F3-5, (Upland Forest/Wildlife Habitat Loss and Mitigation): The FEIS (page 4-52) identifies that approximately 3,079.3 acres of upland forest land will be impacted by project construction. The FEIS (page 4-59) identifies that Rockies Express, in consultation with the U.S. Fish and Wildlife Service (FWS) has developed and signed *Guidelines for Achieving Compliance With the Migratory Bird Treaty Act and Executive Order No. 13186 Through Voluntary Conservation Measures* (Conservation Guidelines) to minimize forest impacts and forest fragmentation impacts to migratory birds (CD Document L). We commend REX for this effort. The Conservation Guidelines provide a good start for developing a comprehensive Upland Forest Mitigation Plan that would include commitments by REX to compensate for the loss of forest land due to the REX-East project. We recommend the Upland Forest Mitigation Plan, in part, identify the specific locations where compensation efforts will take place and identify the specific time that compensation work will begin.

We recommend that a comprehensive Upland Forest Mitigation Plan that includes the Conservation Guidelines be developed for the REX-East project, in consultation with the local, state and federal resource agencies. To help insure that adequate compensation for the substantial loss of this valuable resource will take place, we recommend the plan be prepared prior to FERC issuing a ROD or equivalent FERC Order for the REX-East Project.

Response F3-6, (Air Quality - Compressor Stations): We appreciate the FEIS update regarding the air dispersion modeling for the Arlington Compressor Station and the status of the air permit application for the Chandlersville Compressor Station.

Response F3-7, (Air Quality - REX East Project Construction):

The FEIS continues to identify that the pipeline portion of the project would cross multiple non-attainment counties for ozone and fine particulates (PM_{2.5}). Given the imminent start of construction and to help insure that air quality is maintained, we recommend that the following specific information requested by FERC staff be obtained prior to FERC issuing a NEPA Record of Decision (ROD) or equivalent FERC Order.

- **142.** Rockies Express shall file with the Secretary for review and written approval by the Director of OEP a plan indicating measures Rockies Express would implement within the Indianapolis, Indiana and Cincinnati-Hamilton, Ohio-Kentucky-Indiana nonattainment areas to demonstrate and monitor compliance with the Tier 2 and Tier 3 emissions assumed in Rockies Express' construction emission calculations, as well as to ensure that emissions would remain under the General Conformity Thresholds. (FEIS page 5-41)

We continue to recommend Rockies Express pursue additional opportunities to use clean diesel equipment, vehicles and/or fuels in construction of the project, especially in the non-attainment areas.

We commend FERC staff for the inclusion in the FEIS of a discussion of the project's greenhouse gases (GHG) emissions and global climate changes. We recommend FERC staff may also want to consider and disclose the effect global climate change may have on the project. (FEIS page 4-218)

Response F3-8, (Impacts/Mitigation Table): The FEIS does not contain an Impacts/Mitigation Table that summarizes potential project impacts for each of the identified impact categories (Short-term, Long-term, Permanent), and an accounting of the proposed mitigation measure for each impact as we recommended. We believe this type of table would have helped to better inform the FEIS reader of the project's specific impacts and the specific mitigation commitments that would be undertaken in order to protect the environment.